REMARKS

Favorable reconsideration of this application is respectfully requested in view of the following remarks.

Appreciation is expressed to Examiner Corbin for the indicated allowability of Claims 1-8 and 16-20, and for the indication that Claims 11-14 and 23-26 would be allowable if rewritten in independent form. Claim 11 has been amended to include the subject matter recited in independent Claim 9 and is thus allowable.

Claim 2 has been amended without narrowing the claim scope to delete the first two occurrences of the term "the" as kindly suggested by the Examiner in the Official Action.

With respect to the questions raised concerning the terms "monoazo" and "corresponding FD&C dyes," the following is noted. The term "monoazo as used in the claims in connection with the recitation of the food grade color is a technical term recognized in the industry and refers to a specific chemical configuration of colorants or color compounds. Attached is an exert from a technical reference which refers to monoazo colorants or color compounds.

With respect to the recitations in various claims relating to FD&C dyes, the relevant claims refer to aluminum salts of corresponding FD&C dyes extended on a substratum of alumina hydrate. This terminology refers to synthetic food colorants that are, once again, recognized in the industry and otherwise known in the industry as FD&C lakes such as mentioned in paragraph [0027] of the application.

The term "essentially" has been removed from Claims 1, 14, 16 and 26 for purposes of being in proper Markush form. As recognized, this wording was originally intended and so the amendment does not narrow the claim scope.

With respect to the issue raised concerning Claim 15, it is noted that original Claim 15 is not identical to original Claim 9 because original Claim 9 recites that the potato mash is mixed with at least one of an artificial or natural sweetener and a food grade color, i.e., the potato mash is mixed with either a food grade color or a sweetener (i.e., an artificial sweetener or a natural sweetener). Thus, a change to Claim 15 to address the issue raised in the Official Action is not necessary. Nevertheless, in light of the change to Claim 9, independent Claim 15 has also been amended.

In light of the foregoing, withdrawal of the claim rejections based on the second paragraph of 35 U.S.C. § 112 is respectfully requested.

In light of the allowability of Claims 1-8 and 16-20, the only original independent claims currently at issue are Claims 9 and 21. Independent Claim 9 is directed to a method of preparing potato products comprising at least partially cooking potatoes in a water bath or a steam chamber, producing potato mash from the at least partially cooked potatoes, mixing the potato mash to produce a potato mixture, forming the potato mixture into potato pieces, and then frying and subsequently freezing the potato pieces. As originally recited, Claim 9 defined that the potato mash was mixed with either a food grade color or a sweetener (i.e., an artificial sweetener or a natural sweetener). To more clearly highlight differences between the claimed method and the disclosure contained in U.S. Patent No.

5,484,617 to *Tiffany*, Claim 9 has been amended to delete this alternative wording and instead recite that a food grade color is mixed with the potato mash to produce a potato mixture which is then formed into potato pieces, fried and subsequently frozen.

Tiffany discloses a process for preparing potato pieces that is specifically designed to produce potato pieces having a uniform bright golden color. This desired coloring of the potato pieces is achieved through use of a food grade coloring solution. *Tiffany* describes initially preparing raw potato pieces in a conventional manner by peeling and cutting potatoes into desired shapes suitable for partial cooking in a water bath or steam chamber to swell and gelatinize the potato starch over exposed surfaces of the pieces. The potato pieces are them immersed in an aqueous solution of food grade color that includes annato, blends of annato, FD Yellow No. 5, FD Yellow No. 6, beta carotene, and/or turmeric. The potato pieces that are removed from the aqueous solution have a light golden color and are suitable for further cooking whereupon the color turns to a deeper golden yellow color.

Thus, *Tiffany* is specifically concerned with placing already produced or formed potato pieces into the aqueous color solution so that upon subsequent frying, the potato pieces achieve a desired color.

This is quite different from the claimed method recited in Claim 9 in which potato mash is produced from at least partially cooked potatoes, with this potato mash then being mixed with a food grade color to produce a potato mixture that is subsequently formed into potato pieces which are then fried and frozen. Thus, the method of the present invention

places the food grade color into the potato mash so that the resulting potato mixture, from which the potato pieces are formed, is colored. *Tiffany* does not disclose mixing annato or any of the other mentioned food grade colors in a potato mash to produce a potato mixture that is then used to form potato pieces. Quite the contrary, *Tiffany* envisions immersing already produced potato pieces in an aqueous solution of food grade color. Thus, the claimed method recited in independent Claim 9, and the claims dependent therefrom, is patentably distinguishable over the disclosure contained in *Tiffany*.

Independent Claim 21 has also been amended to more clearly highlight differences between the claimed invention and the disclosure contained in *Tiffany*. Claim 21 is directed to a prepared sweet flavored French fried potato product comprised of potato pieces produced through addition of an artificial sweetener to impart a sweet taste to the potato product which are then subsequently fried. *Tiffany* mentions that a reducing sugar such as dextrose, arabinose, fructose, galactose, mannose, maltose, lactose or cellobiose can be added to the aqueous color solution. However, those reducing sugars are provided for purposes of providing highlights and extra flavor associated with caramelization during the cooking steps following immersion in the aqueous solution of food grade color. In contrast, independent Claim 21 defines a sweet flavored French fried potato product in which potato pieces are produced through the addition of an artificial sweetener to impart a sweet taste to the potato product after which the potato pieces are fried. Thus, the artificial sweetener serves to impart a sweet taste to the potato product, an objective not sought to be achieved by *Tiffany*. In addition, considering that the reducing sugar mentioned in *Tiffany*

is specifically used to provide brown highlights and extra flavor associated with caramelization during the cooking steps, it would not have been obvious to utilize an artificial sweetener as recited in independent Claim 21 in connection with the method described in *Tiffany*. The reason is because an artificial sweetener would presumably not achieve the objective described in *Tiffany* of producing potato pieces with brown highlights and extra flavor associated with caramelization during the cooking steps. It is thus submitted that independent Claim 21 is also patentably distinguishable over the disclosure contained in *Tiffany*.

New independent Claim 31 defines a method of preparing potato products comprising at least partially cooking potatoes, producing potato mash from the at least partially cooked potatoes, mixing the potato mash with sucralose and sugar to produce a potato mixture, forming the potato mixture into potato pieces, and then frying the potato pieces and subsequently freezing the potato pieces. None of the documents relied upon in the Official Action discloses such a method of preparing potato products that involves adding sucralose and sugar to a potato mash to produce a potato mixture which is then used to form potato pieces which are subsequently fried and frozen. Thus, new independent Claim 31 is also allowable.

Independent Claim 32 is the same as independent Claim 1 except that it further defines that the batter solution through which the potato pieces are passed is a flour-based or starch-based batter solution. New independent Claim 33 is also the same as independent Claim 16 except that it also further defines that the batter solution through which the potato

pieces have been passed is a flour-based or a starch-based batter solution. In light of the indicated allowability of independent Claims 1 and 16, Claims 32 and 33 are also allowable.

Early and favorable action with respect to this application is respectfully requested.

Should any questions arise in connection with this application or should the Examiner believe that a telephone conference with the undersigned would be helpful in resolving any remaining issues pertaining to this application, the undersigned respectfully requests that he be contacted at the number indicated below.

Respectfully submitted,

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Date: September 8, 2003

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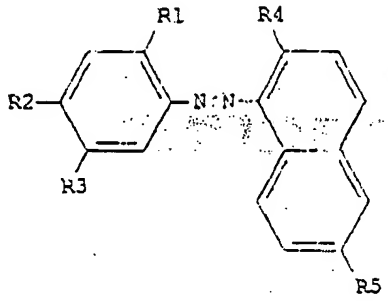
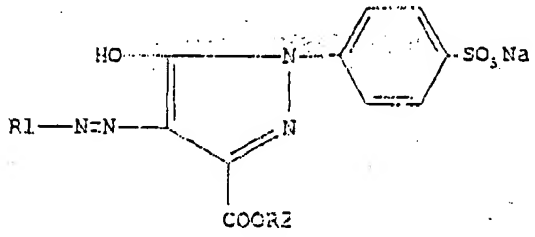
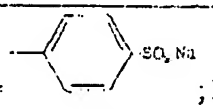


FD&C Yellow No. 6	R1=H; R2=SO_3Na; R3=H; R4=OH; R5=SO_3Na
FD&C Red No. 40	R1=OCH_3; R2=SO_3Na; R3=CH_3; R4=OH; R5=SO_3Na
Citrus Red No. 2	R1=OCH_3; R2=H; R3=OCH_3; R4=OH; R5=H

Figure 1 Monoazo colorants.

No. 6, FD&C Red No. 40, Citrus Red No. 2; see Fig. 1), pyrazolone (FD&C Yellow No. 5, Orange B; see Fig. 2), triphenylmethane (FD&C Blue No. 1, FD&C Green No. 3; see Fig. 3), indigoid (FD&C Blue No. 2; see Fig. 4), and xanthene (FD&C Red No. 3; see Fig. 5) (Marmion, 1979). Tables 9 and 10 summarize their respective chemical properties and stabilities. As is evident from the tables, the dyes have varying degrees of stability dependent upon their chemical structure. The monoazo and pyrazolone structures are subject to SO_2 decolorization through HSO_3^- addition to the nitrogens, resulting in the colorless hydroazo sulfonic acids (von Elbe and Schwartz, 1996); although data were not available for Citrus Red No. 2 and Orange B, their structures indicate that they too would be



FD&C Yellow No. 5 R1=  ; R2=Na

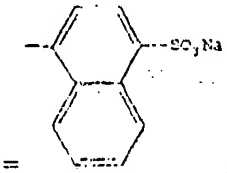
Orange B R1=  ; R2=C_2H_5

Figure 2 Pyrazolone colorants.

R2—

FD&C Blue No
FD&C Green N

Figure 3 Triphe

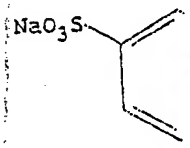


Figure 4 Indig

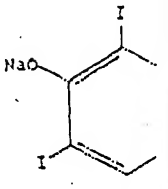
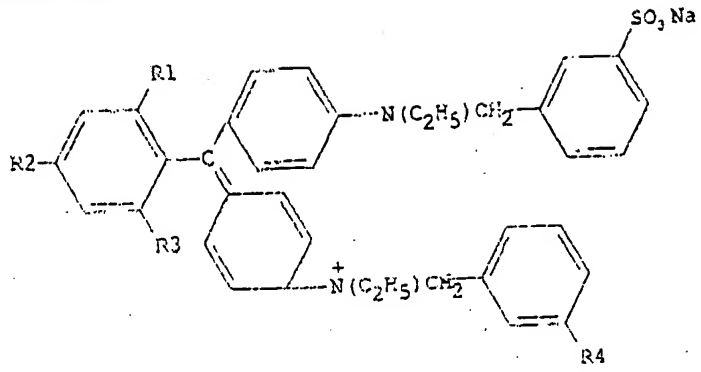


Figure 5 X.



FD&C Blue No. 1	R1=H; R2=H; R3=SO_3^-; R4=SO_3Na
FD&C Green No. 3	R1=SO_3Na; R2=OH; R3=H; R4=SO_3^-

Figure 3 Triphenylmethane colorants.

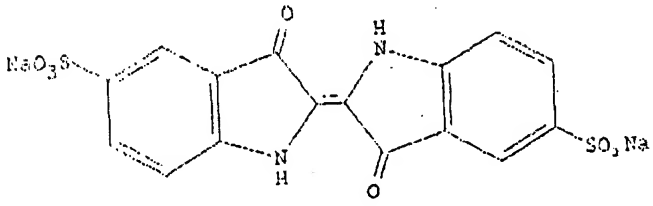


Figure 4 Indigoid colorant FD&C Blue No. 2.

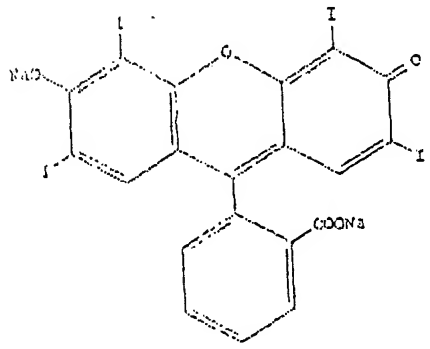


Figure 5 Xanthene colorant FD&C Red No. 3.